

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES EDWARD CURTIS,

Plaintiff,

V.

TERRY J. BENDA, et al.,

## Defendants.

CASE NO. C08-5109BHS

**ORDER DENYING  
PLAINTIFF'S MOTION FOR  
RECONSIDERATION**

This matter comes before the Court on Plaintiff James Edward Curtis's ("Curtis") motion for reconsideration (Dkt. 139) of the Court's order adopting the Report and Recommendation and dismissing Curtis' claims against Defendant Terry J. Benda ("Benda") (Dkt. 59). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby denies West's motion for reconsideration for the reasons stated herein.

On October 6, 2010, the Court adopted the Report and Recommendation of the Honorable Karen L. Strombom, United States Magistrate Judge, concluding that Benda was entitled to qualified immunity and dismissing Curtis's claims against him. Dkt. 134. On October 25, 2010, Curtis filed a motion for leave to file overlength brief (Dkt. 138) and a motion for reconsideration (Dkt. 139).

Motions for reconsideration are governed by Local Rule CR 7(h), which provides as follows:

1 Motions for reconsideration are disfavored. The court will ordinarily  
2 deny such motions in the absence of a showing of manifest error in the prior  
3 ruling or a showing of new facts or legal authority which could not have  
4 been brought to its attention earlier with reasonable diligence.

5 Local Rule CR 7(h)(1).

6 Benda's motion alleges that new facts have surfaced that entitle him to  
7 reconsideration of the Court's October 6, 2010, order. *See* Dkt. 139. However, Curtis  
8 fails to show any of the facts he alleges are relevant to the Court's determination in its  
9 earlier order that Benda is entitled to qualified immunity. First, the Court concludes that  
10 Curtis's motion for leave to file his overlength brief should be granted. However, the  
11 Court concludes that Curtis has not adequately met his burden under CR 7(h)(1) because  
12 he has failed to show the Court committed manifest error or show relevant new facts or  
13 legal authorities that were not available for Curtis to bring to the Court's attention at an  
14 earlier time.

15 Therefore, it is hereby **ORDERED** that Curtis's motion for leave to file overlength  
16 brief (Dkt. 138) is **GRANTED** and his motion for reconsideration (Dkt. 139) is **DENIED**  
17 for the reasons stated herein.

18 DATED this 29th day of October 2010.

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22 BENJAMIN H. SETTLE  
23 United States District Judge  
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